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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION  
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11 ERIC LAQUINCE BROWN, ) No. ED CV 13-02398-DMG (VBK)  
12 )  
13 Petitioner, ) ORDER ACCEPTING FINDINGS AND  
14 ) RECOMMENDATIONS OF UNITED STATES  
15 v. ) MAGISTRATE JUDGE  
16 )  
17 TIM PEREZ, )  
18 )  
19 Respondent. )  
20 \_\_\_\_\_ )  
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23 Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition  
24 for Writ of Habeas Corpus ("Petition"), the records and files herein,  
25 and the Report and Recommendation of the United States Magistrate  
26 Judge ("Report"). Further, the Court has engaged in de novo review of  
27 those portions of the Report to which Petitioner has objected, as well  
28 as Petitioner's Request to Vacate, Etc.

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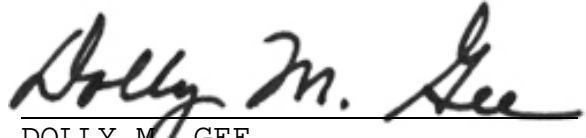
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1 The Court **ORDERS** that: (1) the Findings and Recommendations of  
 2 the Magistrate Judge are accepted, (2) Petitioner's Request to Vacate  
 3 [Doc.# 21] is DENIED; and (3) a Certificate of Appealability ("COA")  
 4 is DENIED.<sup>1</sup>

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 6 DATED: November 24, 2014

  
 DOLLY M. GEE  
 UNITED STATES DISTRICT JUDGE

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 15 <sup>1</sup> Under 28 U.S.C. §2253(c)(2), a COA may issue "only if the  
 16 applicant has made a substantial showing of the denial of a  
 17 constitutional right." Here, the Court has accepted the Magistrate  
 18 Judge's finding and conclusion that the Petition is time-barred.  
 19 Thus, the Court's determination of whether a COA should issue here is  
 20 governed by the Supreme Court's decision in Slack v. McDaniel, 529  
 21 U.S. 473, 120 S. Ct. 1595 (2000), where the Supreme Court held that,  
 22 "[w]hen the district court denies a habeas petition on procedural  
 grounds without reaching the prisoner's underlying constitutional  
 claim, a COA should issue when the prisoner shows, at least, that  
 jurists of reason would find it debatable whether the petition states  
 a valid claim of the denial of a constitutional right and that jurists  
 of reason would find it debatable whether the district court was  
 correct in its procedural ruling." 529 U.S. at 484. As the Supreme  
 Court further explained:

23 "Section 2253 mandates that both showings be made before the  
 24 court of appeals may entertain the appeal. Each component  
 25 of the § 2253(c) showing is part of a threshold inquiry, and  
 26 a court may find that it can dispose of the application in  
 a fair and prompt manner if it proceeds first to resolve the  
 issue whose answer is more apparent from the record and  
 arguments." Id. at 485.

27 Here, the Court finds that Petitioner has failed to make the  
 28 requisite showing that "jurists of reason would find it debatable  
 whether the district court was correct in its procedural ruling."